

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

JOHN NOAKES,

Plaintiff,

v.

THE UNIVERSITY OF CINCINNATI, et al.,

Defendants.

Case No. 1:23-cv-284

Judge Michael R. Barrett

ORDER

This matter is before the Court on Defendants' motion for leave to file a sur-reply. (Doc. 42). Defendants assert that a sur-reply is necessary because Plaintiff John Noakes included new evidence and arguments in his reply in support of the motion for a preliminary injunction. Noakes, while not opposed to the underlying motion for leave, contends that the evidence relied upon in his reply was disclosed to Defendants during the expedited discovery process.

Although the Federal Rules of Civil Procedure do not explicitly contemplate the filing of sur-replies, "such filings may be allowed in the appropriate circumstances, especially '[w]hen new submissions and/or arguments are included in a reply brief, and a nonmovant's ability to respond to the new evidence has been vitiated.'" *Key v. Shelby County*, 551 F. App'x 262, 265 (6th Cir. 2014) (quoting *Seay v. Tenn. Valley Auth.*, 339 F.3d 454, 481 (6th Cir. 2003)). Finding good cause, the Court will exercise its discretion and grant the motion to the extent that Defendants respond to arguments set forth for the first time in Noakes's reply brief. See S.D. Ohio Civ. R. 7.2(d).

Accordingly, the motion for leave to file a sur-reply, (Doc. 42), is **GRANTED**.

IT IS SO ORDERED.

/s/ Michael R. Barrett

Michael R. Barrett
United States District Judge